

## Alcohol and Tobacco Tax and Trade Bureau, Treasury

## § 26.171

in accordance with the regulations governing the operations of such premises in the United States.

[T.D. 6402, 24 FR 6090, July 30, 1959. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-198, 50 FR 8551, Mar. 1, 1985]

### § 26.164a Package gauge record.

When required in this part, with respect to Puerto Rican spirits, a package gauge record shall be prepared to show:

- (a) The date prepared;
- (b) The related transaction form and its serial number;
- (c) The producer or rectifier (processor) of the spirits, and his name, address, and plant registration number; and
- (d) For each package, the:
  - (1) Package identification or serial number;
  - (2) Kind of spirits;
  - (3) Gross weight;
  - (4) Tare;
  - (5) Net weight;
  - (6) Proof gallons; and
  - (7) Proof.

(Approved by the Office of Management and Budget under control number 1512-0250)

[T.D. ATF-198, 50 FR 8551, Mar. 1, 1985]

### § 26.165 Certificate of effective tax rate computation.

(a) Where distilled spirits of Puerto Rican manufacture which contain eligible wine or eligible flavors are to be tax determined for shipment to the United States or are to be shipped to the United States without payment of tax for transfer from customs custody to TTB bond, the consignor shall prepare a certificate of effective tax rate computation showing the:

- (1) The serial number of TTB Form 5110.31 or 5110.51;
- (2) Elements necessary to compute the effective tax rate in accordance with § 26.79a as follows—
  - (i) Proof gallons of distilled spirits (exclusive of distilled spirits derived from eligible flavors);
  - (ii) Wine gallons of each eligible wine and the percentage of alcohol by volume of each; and
  - (iii) Proof gallons of distilled spirits derived from each eligible flavor;

(3) Date of the statement of eligibility for each eligible flavor (see § 26.50a).

(4) Effective tax rate applied to the product.

(5) Signature and title of the consignor.

(b) If the spirits are tax determined for shipment to the United States, the proprietor shall retain the certificate for a period of not less than three years after the last tax determination to which the certificate is applicable. If the spirits are shipped to the United States for transfer from Customs custody to the bonded premises of a distilled spirits plant, the proprietor shall forward the original to the consignee distilled spirits plant in the United States and retain a copy for his files.

(Approved by Office of Management and Budget under control number 1512-0203)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1366, as amended (26 U.S.C. 5232); Sec. 6, Pub. L. 96-598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

[T.D. ATF-297, 55 FR 18067, Apr. 30, 1990. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38552, July 25, 2001]

## Subpart I—Claims for Drawback on Eligible Articles From Puerto Rico

SOURCE: T.D. ATF-263, 52 FR 46594, Dec. 9, 1987, unless otherwise noted.

### § 26.170 Drawback of tax.

Any person who brings eligible articles into the United States from Puerto Rico may claim drawback of the distilled spirits excise taxes paid on such articles as provided in this subpart.

### § 26.171 Special tax.

(a) *General.* Except as otherwise provided in paragraph (b) of this section, any person filing claim for drawback of tax on eligible articles brought into the United States from Puerto Rico shall pay special tax as required by 26 U.S.C. 5131. For purposes of special tax, subparts C and D of part 17 of this chapter shall apply as if the use and tax determination occurred in the United States at the time the article was brought into the United States and, each business location from which entry of eligible articles is caused or

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effected shall be treated as a place of manufacture. If special tax is paid for any such business location under part 197 of this chapter, as a place where nonbeverage products are manufactured for purposes of drawback, then no additional special tax need be paid for that location under this section.

(b) *Suspension of tax.* During the period from July 1, 2005, through June 30, 2008, the rate of the tax described in paragraph (a) of this section is zero. However, any person described in paragraph (a) of this section must register by filing the special tax return on Form 5630.5, in accordance with part 17 of this chapter, during the suspension period even though the amount of tax due is zero.

[T.D. ATF-263, 52 FR 46594, Dec. 9, 1987, as amended by T.D. ATF-271, 53 FR 17559, May 17, 1988; T.D. ATF-379, 61 FR 31427, June 20, 1996; T.D. TTB-36, 70 FR 62246, Oct. 31, 2005]

### § 26.172 Bonds.

(a) *General.* Persons bringing eligible articles into the United States from Puerto Rico and intending to file monthly claims for drawback under the provisions of this subpart shall obtain a bond on Form 5154.3. When the limit of liability under a bond given in less than the maximum amount has been reached, further drawback on monthly claims may be suspended until a strengthening or superseding bond in a sufficient amount has been furnished. For provisions relating to bonding requirements, subpart E of part 17 of this chapter is incorporated in this part.

(b) *Approval required.* No person bringing eligible articles into the United States from Puerto Rico may file monthly claims for drawback under the provisions of this subpart until a bond on TTB Form 5154.3 has been approved.

[T.D. ATF-379, 61 FR 31427, June 20, 1996, as amended by T.D. ATF-451, 66 FR 21669, May 1, 2001]

### § 26.173 Claims for drawback.

(a) *General.* Persons bringing eligible articles into the United States from Puerto Rico must file claim for drawback on TTB Form 2635 (5620.8). Upon finding that the claimant has satisfied the requirements of this subpart, the appropriate TTB officer must allow the

drawback of taxes at a rate of \$1 less than the lesser of \$10.50 a proof gallon or the rate specified in 26 U.S.C. 5001(a).

(b) *Information on claims.* The claim must set forth the following:

(1) That the special tax has been paid;

(2) That the eligible articles brought into the United States on which drawback is claimed are fully tax paid or tax-determined;

(3) That the eligible articles on which drawback is claimed are nonbeverage products; and

(4) That the eligible articles were manufactured in Puerto Rico in compliance with an approved formula in accordance with § 26.51.

(c) *Supporting data.* Each claim shall be accompanied by supporting data as specified in this paragraph. TTB Form 5154.2, Supporting Data for Nonbeverage Drawback Claims, may be used, or the claimant may use any suitable format that provides the following information:

(1) The control number of the Special Tax Stamp and the tax year for which issued;

(2) A description of each eligible article as follows:

- (i) Name and type of each product;
- (ii) Name and address of the manufacturer of each product;
- (iii) Formula number;
- (iv) Alcohol content of each product;
- (v) Quantity of each product;
- (vi) Proof gallons of distilled spirits contained in each product;
- (vii) Date of entry of the eligible product into the United States, and
- (viii) The serial number of each TTB Form 487-B (5170.7) covering such articles shipped to the United States.

(d) *Date of filing claim.* Quarterly claims for drawback shall be filed within the 6 months next succeeding the quarter in which the eligible products covered by the claim were brought into the United States. Monthly claims for drawback may be filed at any time after the end of the month in which the eligible products covered by the claim were brought into the United States, but must be filed not later than the close of the sixth month succeeding the